

November 22, 2021

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

BY: CC
DEPUTY CLERK

USA

)

)

v.

) **Case Number: 21-cv-0796**) **Hon. Judge Robert L. Pitman**

Texas, et al

)

)

NOTICE OF FILING IN SUPPORT OF [62], [72], [85], [87], AND FOR

NOTICE TO THE HONORABLE COURT OF PARALLEL PROCEEDINGS

I, Felipe Gomez, a (proposed) Intervenor/Movant here, submit the attached filings in related matter *Braid v Stilley, Gomez and DeMino, 21cv5283 (NDILL)* in support of his extant motions in 21cv796, and for the Notice of Record here:

1. Braid FRCP 5.1 Notice of Questions [4],
2. Gomez 11.22.21 FRCP 5.1 Motion to Order Texas Added and Certify [Pending],
3. Gomez 11.22.21 FRCP 19 Motion to Add USA and Texas [Pending].

Submitted By: s/ Felipe N Gomez, Pro Se

Certified and Date: 11.22.21

NOTICE AND CERTIFICATE OF FILING AND SERVICE

I, FELIPE GOMEZ, PRO SE, HEREBY NOTIFY AND CERTIFY THAT I FILED THE FOREGOING MOTION WITH THE CLERK OF THE COURT THROUGH THE PRO SE DROP BOX FOR FILING INTO THE CF/ECM SYSTEM, AND FOR THAT SYSTEM TO SERVE A COPY TO THE PARTIES' COUNSEL BY WAY OF THE E-FILEING SYSTEM, ON THIS DATE,

CERTIFIED BY: S/ *FELIPE GOMEZ*, DATE: **11.22.21**

FELIPE GOMEZ PRO SE
1922 W. BELMONT AVE 1F
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ATTACHMENT 1

BRAID FRCP 5.1 NOTICE

21cv5283

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ALAN BRAID, M.D.,

Interpleader Plaintiff,

v.

Case No: 1:21-cv-05283

OSCAR STILLEY; FELIPE N. GOMEZ;
WOLFGANG P. HIRCZY DE MINO, PH.D.,
AKA TEXAS HEARTBEAT PROJECT,

Interpleader Defendants.

NOTICE OF CONSTITUTIONAL QUESTION

Pursuant to Federal Rule of Civil Procedure 5.1, Interpleader Plaintiff Alan Braid, M.D., provides this Notice of Constitutional Question.

Multiple claimants have filed suit against Dr. Braid seeking entitlement to a statutory damages award pursuant to Texas Health and Safety Code § 171.201 *et seq.* (“SB8”). Dr. Braid has filed a complaint in the nature of interpleader in the above-captioned action drawing in question the constitutionality of SB8, as a defense to these competing claims. *See* ECF No. 1.

The constitutional questions raised in Dr. Braid’s complaint are:

(1) Whether SB8 violates the Fourteenth Amendment to the United States Constitution’s substantive due process guarantee;

(2) Whether SB8 violates the Fourteenth Amendment to the United States Constitution’s guarantee of equal protection under the law;

(3) Whether SB8 is void for vagueness under the Fourteenth Amendment to the United States Constitution;

(4) Whether SB8 conflicts with the United States Supreme Court's interpretation of the federal constitution such that SB8 is unenforceable as preempted by federal law; and

(5) Whether Texas Civil Practice & Remedies Code § 30.022 constitutes a viewpoint- and content-based restriction in violation of the First Amendment to the United States Constitution.

In accordance with Federal Rule of Civil Procedure 5.1(a)(2), on October 5, 2021, Dr. Braid served a copy of this notice and the complaint in this action on the Texas Attorney General via certified mail.

Dated: October 5, 2021

Respectfully submitted,

/s/ Suyash Agrawal

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Meredith E. Stewart*
Ebony Ray*
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mestewart@debevoise.com
eray@debevoise.com

Counsel for Interpleader Plaintiff Alan Braid, M.D.

*Application for admission *pro hac vice* forthcoming

CERTIFICATE OF SERVICE

I, Suyash Agrawal, certify that on October 5, 2021, I caused a copy of the foregoing Notice of Constitutional Question to be served via certified mail to:

Office of the Attorney General
PO Box 12548
Austin, TX 78711-2548

/s/ *Suyash Agrawal*

ATTACHMENT 2

GOMEZ M.FRCP 5.1 CERTIFICATION
21cv5283

RECEIVED**11/21/2021**THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BRAID)	
)	
Plaintiff,)	
)	
v.)	No.: 1:21-cv-5283
)	
STILLEY, GOMEZ, DEMINO)	“Interpleader”
)	
)	
Defendants.)	

**DEFENDANT F. GOMEZ MOTION TO ISSUE FRCP 5(b) CERTIFICATION, TO
CERTIFY THIS MATTER TO USCA7 PER [4], AND STAY ALL PROCEEDINGS
BELOW**

NOW COMES UNDERSIGNED, and having circulated a substantially similar draft to this Motion, MOVES and states in support as follows:

1. Rule 5.1 (Constitutional Challenge to a Statute) provides:

(a) Notice by a Party. A party that files a pleading, written motion, or other paper drawing into question the constitutionality of a federal or state statute must promptly:

(1) file a notice of constitutional question stating the question and identifying the paper that raises it, if:

(A) a federal statute is questioned and the parties do not include the United States, one of its agencies, or one of its officers or employees in an official capacity; or

(B) a state statute is questioned and the parties do not include the state, one of its agencies, or one of its officers or employees in an official capacity; and

(2) serve the notice and paper on the Attorney General of the United States if a federal statute is questioned—or on the state attorney general if a state statute is questioned—either by certified or registered mail or by sending it to an electronic

address designated by the attorney general for this purpose.

(b) Certification by the Court. The court must, under 28 U.S.C. §2403, certify to the appropriate attorney general that a statute has been questioned.

(c) Intervention; Final Decision on the Merits. Unless the court sets a later time, the attorney general may intervene within 60 days after the notice is filed or after the court certifies the challenge, whichever is earlier. Before the time to intervene expires, the court may reject the constitutional challenge, but may not enter a final judgment holding the statute unconstitutional.

(d) No Forfeiture. A party's failure to file and serve the notice, or the court's failure to certify, does not forfeit a constitutional claim or defense that is otherwise timely asserted.

2. 28 U.S. Code § 2403 (Intervention by United States or a State; constitutional question), provides:

(a) In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The United States shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

(b) In any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the State, and shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

3. Plaintiff Braid filed a FRCP 5.1 Notice [4] on 10.5.21, making 12.6.21 the 60 day due date for Texas to intervene. *Attachment A - FRCP 5.1 Notice [4]*.

4. The record does not contain FRCP 5.1(a)(2) Proof of Service, nor has the Court acted on the Notice per the mandatory provisions of FRCP 5.1(b), the Parties failing to raise the issue of the presence of the Notice during the 11.19.21 Hearing and scheduling conference, and undersigned Movant on that day apologizing therefore. *Att. B - 21cv5283 Docket.*
5. Gomez wishes to further the prompt and immediate dismissal of himself from this case this case, having no desire to linger while Plaintiff takes his time serving DeMino, or attending to obligations that typically fall on a federal plaintiff, not on the defendant trying to get out of the matter as soon as possible, and Plaintiff not needing to serve DeMino once the Court recognizes the lack of interpleader jurisdiction here over Movant.
6. However, if dismissal is not immediately obtainable, and if and when Texas appears, or before that if the Court elects (Texas' arguments being really directed there anyway), Gomez moves this Court to certify the Questions to the Seventh Circuit, and stay the matter here thereafter, including the Motion to Dismiss [15], along with all other briefing and motions, until USCA7 can weigh in.

WHEREFORE, GOMEZ respectfully MOVES this Court to issue FRCP 5.1(b) Certification, order proof of FRCP 5.1(a)(2) notice, and once Texas appears, Certify the Questions raised in [4] to USCA7, and STAY this matter in its entirety in the interim.

Respectfully Submitted By:

By: *s/ Felipe Gomez, PRO SE* Date: 11.21.21

Felipe Gomez

fgomez9592@gmail.com

Chicago, IL 60657

312.509.2071

NOTICE AND CERTIFICATE OF FILING AND SERVICE

I, FELIPE GOMEZ, PRO SE, HEREBY NOTIFY AND CERTIFY THAT I FILED THE FOREGOING MOTION T
WITH THE CLERK OF THE COURT THROUGH THE CMF/EC SYSTEM, AND SERVED A COPY TO PLAINTIFF S'
COUNSEL BY WAY OF THE E-FILING SYSTEM, ON THIS DATE, AS WELL AS EMAILED A COPY TO CO-DEFENDANTS
BY SAME SYSTEM.

CERTIFIED BY: s/ *FELIPE GOMEZ*, DATE: **11.21.21**

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ATTACHMENT A

FRCP 5.1 Notice [4]

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ALAN BRAID, M.D.,

Interpleader Plaintiff,

V.

Case No: 1:21-cv-05283

OSCAR STILLEY; FELIPE N. GOMEZ;
WOLFGANG P. HIRCY DE MINO, PH.D.,
AKA TEXAS HEARTBEAT PROJECT,

Interpleader Defendants.

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Multiple claimants have filed suit against Dr. Braid seeking entitlement to a statutory damages award pursuant to Texas Health and Safety Code § 171.201 *et seq.* (“SB8”). Dr. Braid has filed a complaint in the nature of interpleader in the above-captioned action drawing in question the constitutionality of SB8, as a defense to these competing claims. *See* ECF No. 1.

The constitutional questions raised in Dr. Braid's complaint are:

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In accordance with Federal Rule of Civil Procedure 5.1(a)(2), on October 5, 2021, Dr. Braid served a copy of this notice and the complaint in this action on the Texas Attorney General via certified mail.

Dated: October 5, 2021

Respectfully submitted,

/s/ Suyash Agrawal

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Counsel for Interpleader Plaintiff Alan Braid, M.D.

*Application for admission *pro hac vice* forthcoming

CERTIFICATE OF SERVICE

I, Suyash Agrawal, certify that on October 5, 2021, I caused a copy of the foregoing Notice of Constitutional Question to be served via certified mail to:

Office of the Attorney General
PO Box 12548
Austin, TX 78711-2548

/s/ *Suyash Agrawal*

ATTACHMENT B

21cv5283 Docket

FINNEGAN

United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 6.3.3 (Chicago)
CIVIL DOCKET FOR CASE #: 1:21-cv-05283

Braid v. Stilley et al
Assigned to: Honorable Jorge L. Alonso
Cause: 28:1335 Interpleader Action

Date Filed: 10/05/2021
Jury Demand: None
Nature of Suit: 380 Personal Property: Other
Jurisdiction: Diversity

Plaintiff

Alan Braid
M.D.

represented by **Abigail C. Noebels**
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ATTORNEY TO BE NOTICED

V.

Defendant

Oscar Stilley

represented by **Oscar Stilley**

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PRO SE

Defendant

Felipe N. Gomez

represented by **Felipe N. Gomez**

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PRO SE

Defendant

Wolfgang P. Hirczy De Mino

PH.D.

also known as

Texas Heartbeat Project

Counter Claimant

Oscar Stilley

V.

Counter Defendant

Alan Braid

M.D.

represented by **Abigail C. Noebels**
(See above for address)
ATTORNEY TO BE NOTICED

Alethea Anne Swift
(See above for address)
ATTORNEY TO BE NOTICED

Ebony Ray
(See above for address)
ATTORNEY TO BE NOTICED

Katherine Peaslee
(See above for address)
ATTORNEY TO BE NOTICED

Marc Andrew Hearron
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ATTORNEY TO BE NOTICED

Molly Rose Duane
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Richard W. Hess
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Shannon R. Selden
(See above for address)
ATTORNEY TO BE NOTICED

Suyash Agrawal
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/05/2021	<u>1</u>	COMPLAINT for Interpleader and Declaratory Judgment filed by Alan Braid against Felipe Gomez, Wolfgang Hirczy de Mino, Oscar Stilley (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C)(Agrawal, Suyash) Docket Text Modified by Clerk's Office on 10/6/2021) (jg,). (Entered: 10/05/2021)
10/05/2021	<u>2</u>	ATTORNEY Appearance for Interpleader Alan Braid by Suyash Agrawal (Agrawal, Suyash) (Entered: 10/05/2021)
10/05/2021	<u>3</u>	ATTORNEY Appearance for Interpleader Alan Braid by Alethea Anne Swift (Swift, Alethea) (Entered: 10/05/2021)
10/05/2021	<u>4</u>	Notice of Constitutional Question by Alan Braid (Agrawal, Suyash) (Entered: 10/05/2021)
10/06/2021	<u>5</u>	MOTION for Interpleader Deposit (28 U.S.C. Section 1335) (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Text of Proposed Order)(Agrawal, Suyash) (Entered: 10/06/2021)
10/06/2021		CASE ASSIGNED to the Honorable Jorge L. Alonso. Designated as Magistrate Judge the Honorable Sheila M. Finnegan. Case assignment: Random assignment. (dxb,) (Entered: 10/06/2021)
10/06/2021	<u>6</u>	MOTION for Leave to Appear Pro Hac Vice Filing fee \$ 150, receipt number 0752-18744651. (Duane, Molly) (Entered: 10/06/2021)
10/06/2021	<u>7</u>	NOTICE of Motion by Suyash Agrawal for presentment of MOTION for Interpleader Deposit (28 U.S.C. Section 1335) <u>5</u> before Honorable Jorge L. Alonso on 10/13/2021 at 09:30 AM. (Agrawal, Suyash) (Entered: 10/06/2021)
10/06/2021	<u>8</u>	MOTION by Plaintiff Alan BraidMOTION for Leave to Appear Pro Hac Vice Filing fee \$ 150, receipt number 0752-18745296 (Stewart, Meredith) (Entered: 10/06/2021)
10/06/2021	<u>9</u>	MOTION for Leave to Appear Pro Hac Vice Filing fee \$ 150, receipt number 0752-18745581. (Ray, Ebony) (Entered: 10/06/2021)
10/06/2021	<u>10</u>	MOTION for Leave to Appear Pro Hac Vice Filing fee \$ 150, receipt number 0752-18745890. / <i>Motion for Leave for Shannon R. Selden to Appear Pro Hac Vice</i> (Attachments: # <u>1</u> Addendum--Additional Court Admissions)(Selden, Shannon) (Entered: 10/06/2021)
10/06/2021	<u>11</u>	MOTION for Leave to Appear Pro Hac Vice Filing fee \$ 150, receipt number 0752-18745927. (Peaslee, Katherine) (Entered: 10/06/2021)
10/06/2021	<u>22</u>	PRO SE Appearance by Defendant Felipe N. Gomez (nsf,) (Received for docketing on 10/25/21) (Entered: 10/25/2021)
10/07/2021	<u>12</u>	MOTION for Leave to Appear Pro Hac Vice Filing fee \$ 150, receipt number 0752-18747870. (Hess, Richard) (Entered: 10/07/2021)
10/07/2021		SUMMONS Issued as to Defendants Felipe N. Gomez, Wolfgang P. Hirczy De Mino, Oscar Stilley (dxb,) (Entered: 10/07/2021)
10/07/2021	<u>13</u>	MOTION for Leave to Appear Pro Hac Vice Filing fee \$ 150, receipt number 0752-18749599. <i>Abigail C. Noebels</i> (Noebels, Abigail) (Entered: 10/07/2021)
10/10/2021	<u>14</u>	MOTION by Defendant Felipe N. Gomez for Judicial notice of correct complaints in Gomez v. Braid, 21 CI 19920(Bexar County District Court, TX). (nsf,) (Entered: 10/12/2021)
10/11/2021	<u>15</u>	MOTION by Defendant Felipe N. Gomez FRCP 12(b)(1) Motion to dismiss Interpleader defendant Felipe Gomez for lack of Controversy and lack of subject matter jurisdiction. (Exhibits) (nsf,) (Entered: 10/12/2021)
10/12/2021	<u>16</u>	MINUTE entry before the Honorable Jorge L. Alonso: Interpleader Plaintiff's motion for leave to deposit interpleader funds <u>5</u> is granted. Enter Order. Plaintiff's motions for leave to appear pro hac

		vice 6 , 8 , 9 , 10 , 11 , 12 , 13 are granted. Motion hearing date of 10/13/21 is stricken. Notice mailed by Judge's staff (lf,) (Entered: 10/12/2021)
10/15/2021	17	ORDER Granting Interpleader Plaintiff's Motion For Leave To Deposit Interpleader Funds. Signed by the Honorable Jorge L. Alonso on 10/15/2021. Notice mailed by Judge's staff (lf,) (Entered: 10/15/2021)
10/15/2021	18	NOTICE of filing by Felipe N. Gomez re MOTION by Defendant Felipe N. GomezFRCP 12(b)(1) Motion to dismiss Interpleader defendant Felipe Gomez for lack of Controversy and lack of subject matter jurisdiction 15 , MOTION by Defendant Felipe N. Gomez for Judicial notice of correct complaints in Gomez v. Braid, 21 CI 19920(Bexar COunty District Court, TX) 14 (nsf,) (Entered: 10/15/2021)
10/15/2021	19	MOTION for Leave to Appear Pro Hac Vice Filing fee \$ 150, receipt number 0752-18773066. (Hearron, Marc) (Entered: 10/15/2021)
10/15/2021		BOND in the amount of \$ 10,000.00 cashier's check, Receipt No. 4624263157, posted by Alan Braid. (jmk,) (Entered: 10/15/2021)
10/21/2021	20	MOTION by Defendant Felipe N. Gomez to expedite Motion for Judicial Notice 14 , 18 ,and Motion to Dismiss 15 . (nsf,) (Entered: 10/21/2021)
10/21/2021	21	PRO SE Appearance by Defendant Felipe N. Gomez. (nsf,) (Entered: 10/21/2021)
11/07/2021	23	ANSWER to Intervenor Complaint , and COUNTERCLAIM filed by Oscar Stilley against Alan Braid . by Oscar Stilley(Stilley, Oscar) (Entered: 11/07/2021)
11/14/2021	24	NOTICE of Motion by Felipe N. Gomez for presentment of motion to expedite 20 , motion for miscellaneous relief 14 , motion for miscellaneous relief 15 before Honorable Jorge L. Alonso on 11/19/2021 at 09:30 AM. (Exhibits) (ph,) Modified on 11/17/2021 (ph,). (Entered: 11/15/2021)
11/18/2021	25	MINUTE entry before the Honorable Jorge L. Alonso: Telephonic motion hearing set for 11/19/21 at 9:30 a.m. Members of the public and media will be able to call in to listen to this hearing. The call-in number is 888-808-6929 and the access code is 4911854. Counsel of record will receive an email 30 minutes prior to the start of the telephonic hearing with instructions to join the call. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Notice mailed by Judge's staff (lf,) (Entered: 11/18/2021)
11/18/2021	26	STATUS Report on service, Motions, Stilley Answer/Counterclaim filed by Defendant Felipe N. Gomez. (jh,) (Entered: 11/19/2021)

PACER Service Center			
Transaction Receipt			
11/21/2021 11:48:04			
PACER Login:	t3123993966:3030355:0	Client Code:	
Description:	Docket Report	Search Criteria:	1:21-cv-05283
Billable Pages:	5	Cost:	0.50

ATTACHMENT 3

**GOMEZ M.FRCP 19 ADD USA AND TEXAS TO
21cv5283**

RECEIVED**11/22/2021**THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BRAID)	
)	
Plaintiff,)	
)	
v.)	No.: 1:21-cv-5283
)	
STILLEY, GOMEZ, DEMINO)	"Interpleader"
)	
)	
Defendants.)	

**DEFENDANT F. GOMEZ FRCP 19 MOTION TO JOIN USA AND TEXAS AS
NECESSARY PARTIES**

NOW COMES UNDERSIGNED, and not having had time to circulate a substantially similar draft to this Motion, MOVES that USA and TEXAS be added, and states in support as follows:

1. FRCP 19 provides in relevant part:

a) Persons Required to Be Joined if Feasible.

(1) Required Party. A person who is subject to service of process and whose joinder will not deprive the court of subject-matter jurisdiction must be joined as a party if:

(A) in that person's absence, the court cannot accord complete relief among existing parties; or

(B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may:

(i) as a practical matter impair or impede the person's ability to protect the interest; or

(ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.

(2) Joinder by Court Order. If a person has not been joined as required, the court must order that the person be made a party. A person who refuses to join as a plaintiff may be

made either a defendant or, in a proper case, an involuntary plaintiff.

2. Plaintiff Braid filed a FRCP 5.1 Notice [4] on 10.5.21, making 12.6.21 the 60 day due date for Texas to intervene, which Notice raises issues that need to be addressed by the USA and Texas, that the current parties are not best situated to address, nor have the interests at stake that the USA and Texas do. *Attachment A - FRCP 5.1 Notice [4]*.
3. Gomez wishes to further the prompt and immediate dismissal of himself from this case this case, having no desire to linger while Plaintiff takes his time serving DeMino, or attending to obligations that typically fall on a federal plaintiff, not on the defendant trying to get out of the matter as soon as possible, and Plaintiff not needing to serve DeMino once the Court recognizes the lack of interpleader jurisdiction here over Movant.
4. However, appeal serves the same purpose for the moment as far as not litigating this matter if can be avoided, and Gomez has moved for Certification in support of Plaintiff's Notice [4], and now moves that the USA and Texas be added here as the Notice and issues therein require, per FRCP 19(a)(1)(B), and FRCP 19(a)(2) mandating that be done by the Court.

WHEREFORE, primary Defendant GOMEZ respectfully MOVES this Court to ORDER that the USA and Texas be joined as FRCP 19(a)(1)(B) necessary, or FRCP 20 permissive parties, to allow them to speak to the issue raised in [4] upon Certification by this Court, which if granted serves to provide the relief Movant seeks in [15], at least in part as far as staying this litigation in its tracks.

Respectfully Submitted By:

By: *s/ Felipe Gomez, PRO SE* Date: 11.22.21

Felipe Gomez

fgomez9592@gmail.com

Chicago, IL 60657

312.509.2071

NOTICE AND CERTIFICATE OF FILING AND SERVICE

I, FELIPE GOMEZ, PRO SE, HEREBY NOTIFY AND CERTIFY THAT I FILED THE FOREGOING MOTION WITH THE CLERK OF THE COURT THROUGH THE CMF/EC SYSTEM, AND SERVED A COPY TO PLAINTIFF S' COUNSEL BY WAY OF THE E-FILING SYSTEM, ON THIS DATE, AS WELL AS EMAILED A COPY TO CO-DEFENDANTS BY SAME SYSTEM.

CERTIFIED BY: s/ *FELIPE GOMEZ*, DATE: **11.22.21**

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ATTACHMENT A

FRCP 5.1 Notice [4]

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ALAN BRAID, M.D.,

Interpleader Plaintiff,

V.

Case No: 1:21-cv-05283

OSCAR STILLEY; FELIPE N. GOMEZ;
WOLFGANG P. HIRCY DE MINO, PH.D.,
AKA TEXAS HEARTBEAT PROJECT,

Interpleader Defendants.

NOTICE OF CONSTITUTIONAL QUESTION

Pursuant to Federal Rule of Civil Procedure 5.1, Interpleader Plaintiff Alan Braid, M.D., provides this Notice of Constitutional Question.

Multiple claimants have filed suit against Dr. Braid seeking entitlement to a statutory damages award pursuant to Texas Health and Safety Code § 171.201 *et seq.* (“SB8”). Dr. Braid has filed a complaint in the nature of interpleader in the above-captioned action drawing in question the constitutionality of SB8, as a defense to these competing claims. *See* ECF No. 1.

The constitutional questions raised in Dr. Braid's complaint are:

(1) Whether SB8 violates the Fourteenth Amendment to the United States Constitution’s substantive due process guarantee;

(2) Whether SB8 violates the Fourteenth Amendment to the United States Constitution's guarantee of equal protection under the law;

(3) Whether SB8 is void for vagueness under the Fourteenth Amendment to the United States Constitution;

(4) Whether SB8 conflicts with the United States Supreme Court's interpretation of the federal constitution such that SB8 is unenforceable as preempted by federal law; and

(5) Whether Texas Civil Practice & Remedies Code § 30.022 constitutes a viewpoint- and content-based restriction in violation of the First Amendment to the United States Constitution.

In accordance with Federal Rule of Civil Procedure 5.1(a)(2), on October 5, 2021, Dr. Braid served a copy of this notice and the complaint in this action on the Texas Attorney General via certified mail.

Dated: October 5, 2021

Respectfully submitted,

/s/ Suyash Agrawal

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Counsel for Interpleader Plaintiff Alan Braid, M.D.

*Application for admission *pro hac vice* forthcoming

CERTIFICATE OF SERVICE

I, Suyash Agrawal, certify that on October 5, 2021, I caused a copy of the foregoing Notice of Constitutional Question to be served via certified mail to:

Office of the Attorney General
PO Box 12548
Austin, TX 78711-2548

/s/ *Suyash Agrawal*